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PATENT
Customer No. 22,852
Attorney Docket No. 05725.0800-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Roland BAZIN et al.) Group Art Unit: 3743
)
Application No.: 09/725,048) Examiner: Amanda Flynn Wieker
)
Filed: November 29, 2000)
)
For: PROCESS FOR ACQUIRING) Confirmation No.: 8605
SCANNED IMAGE DATA)
RELATING TO AN EXTERNAL)
BODY PORTION AND/OR A)
PRODUCT APPLIED THERETO)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

In an Office Action dated December 28, 2005, the Examiner required an election of species and subspecies among the following asserted species and subspecies:

Species A: Figs. 2-5;

Subspecies I: Fig. 6;

Subspecies II: Fig. 7;

Species B: Fig. 8;

Subspecies (i): Figs. 9-14 and 18-19;

Subspecies (ii): Figs. 15-16;

Subspecies (iii): Fig. 17; and

Subspecies (iv): Fig. 20.

Applicants respectfully submit that the election of species and subspecies requirement should be withdrawn because it is improper for at least two different reasons. First, since all of the claims have already been examined on the merits and addressed in numerous prior Office Actions, there would not be a serious burden if all of the claims continue to be examined without any election of species/subspecies requirement. "If the search and examination of an entire application can be made without serious burden the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." M.P.E.P. § 803 (emphasis added). This mandatory language of the M.P.E.P. clearly requires the entire application to be examined when, as is the present case, all of the claims have been searched and examined on several prior occasions, evidencing a clear lack of any serious burden.

Second, and even more importantly, the election of species requirement should be withdrawn because the listing of drawing figures set forth in the Office Action does not necessarily correspond to a listing of species that are mutually exclusive from one another. See M.P.E.P. § 806.04(f). In particular, some examples of the claimed method might involve more than one of the drawing figures identified by the Examiner. For example, even though there are some exemplary methods that might involve the subject matter of only one of Figs. 2-5 and 8, there are certain exemplary methods that might combine the subject matter of more than one of Figs. 2-5 and 8. In addition, there are also some exemplary methods that might not necessarily involve those figures. Accordingly, the election of species requirement should be withdrawn because the Examiner has not enabled Applicants to elect certain exemplary methods.

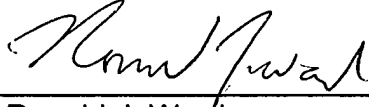
To be fully responsive to the Office Action, Applicants provisionally elect to prosecute Species A as shown in Figs. 2-5, with a further election of Subspecies I as shown in Fig. 6. At least claims 4, 6-8, 11, 12, 14-20, 24-48, 59, 61, and 62 appear to be "readable" on the subject matter illustrated in the elected species. Contrary to the indication in the Office Action, several of the claims appear to be generic.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 27, 2006

By: 

Ronald J. Ward
Reg. No. 54,870